

## REMARKS

### New claim 19

Claim 1-19 are now pending. Claim 19 has newly been added to address the embodiment in which a switch designated as a standby switch for one VLAN is operating as a master switch for another VLAN. *See* Specification at p. 18, lines 7-9.

### Rejection Under Section 102

The Examiner has rejected claims 1, 2, 4, 5, 6, 7, 9, 10, 11, 13-16 and 18 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,751,191 to Kanekar *et al.* (the “’191 patent”).

The ‘191 patent discloses a device for forwarding packets in a network. A first router and second router share interfaces, and the first router and second router share forwarding data for forwarding packets on the shared interfaces. *See* ‘191 patent, Abstract. The ‘191 patent discloses the use of a master router and slave router having a shared set of interfaces. *See* ‘191 patent, col. 2, lines 14-22. As noted in the prior Response to Office Action, the present invention calls for switches. A clarifying amendment has been made to claims 1 and 10 to note that these switches run only a layer 2 protocol. The ‘191 patent teaches redundant layer 3 routing devices. *See* col. 2, lines 49-56.

The ‘191 patent also does not teach auto-negotiation as claimed. The Examiner cites col. 12, lines 6-67 and col. 13, lines 1-26 for that teaching. Those passages, however, discuss the modification of the layer 3 shortcut table for the slave router, and do not teach or suggest the auto-negotiation process as claimed. Moreover, the claims have been amended to note the flushing of the layer 2 table at a port responsive to this instruction by the master—this is not taught by the ‘191 patent, and the claims should be allowed.

It is also noted in reference to the ‘191 patent that the master and slave taught therein each require a routing processor. *See* col. 2, lines 51-52. In view of this salient distinction between routers and switches, the ‘191 patent does not teach the following elements of claim 1: “a first switch having a master mode and a standby mode”; “a second switch having a master

mode and a standby mode,” “wherein said first switch is configured, upon a detection of a network failure, to restart auto-negotiation of said ports, and to transition to said standby mode; and wherein said second switch is configured, upon said detection of a network failure, to transition to said master mode.”

With respect to claim 10, the ‘191 patent does not teach or suggest “establishing a first switch having a master mode and a standby mode as a master switch”; “configuring said master switch to provide switching between said ports”; “establishing a second switch having a master mode and a standby mode as a standby switch”; “restarting auto-negotiation of said ports with said master switch”; “transitioning said first switch to standby mode, whereby said first switch becomes said standby switch”; and “transitioning said second switch to master mode, whereby said second switch becomes said master switch.”

Claims 2-9 and 11-18 are dependent upon claims 1 and 10, and are thus allowable over the ‘191 patent.

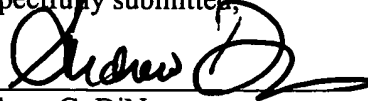
With respect to claims 4 and 13, it is noted that the ‘191 patent discloses routers running a layer 3 protocol. The claims have been amended to clarify that the switches run a layer 2 protocol only.

The Examiner has rejected claims 3 and 12 as obvious over the ‘191 patent in view of the ExtremeWare Software User’s Guide--Software Version 6.1 (April 2000) (“ESUG”). More specifically, the Examiner contends that ESUG discloses the ESRP protocol, and that it would have been obvious to use the ESRP protocol in the claimed invention. With respect to claims 8 and 17, the Examiner concedes that neither the ‘191 patent nor the ESUG teaches or suggests using ping track. The Examiner argues, however, that U.S. Patent No. 6,108,300 to Coile *et al.* (the “’300 patent”) can be combined with the ‘191 patent to render the invention described in claims 8 and 17 obvious. As the Examiner has acknowledged, there must be some teaching or suggestion in the prior art before references can be combined. There is no teaching or suggestion to use ping track to determine operational status in the ‘191 patent, which teaches away from this practice and uses a time out, which suffers from significant drawbacks. Therefore, the Applicant respectfully requests that this rejection under Section 103 be withdrawn.

In view of the amendments and remarks set forth above, Applicant believes the pending application is in condition for allowance, which Applicant respectfully requests.

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Respectfully submitted,

By 

Andrew G. DiNovo

Registration No.: 40,115

JENKENS & GILCHRIST, A PROFESSIONAL  
CORPORATION

401 Congress Ave

Suite 2500

Austin, Texas 78701

(512) 499-3800

Attorneys For Applicant